HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:28160 OF 2007

Dated:28.12.2007

Between:

M/s. Vijaya Cotton Ginning Mill,
Thimmapuram,
Guntur District rep., by its
Managing Partner
P. Ravindra Babu

..Petitioner

And

1. The Commercial Tax Officer,
   Chilakaluripet and another.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
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WRIT PETITION No:28160 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the 2nd respondent in rejecting the stay application by proceedings, dated 13.11.2007 in CCT's Ref.No.LV/4/757/2007 as arbitrary and illegal and consequent to grant stay of collection of the disputed demand for the assessment years 2001-2002 and 2002-2003, pending disposal of the appeal before the Sales Tax Appellate Tribunal, Visakhapatnam.

The main grievance of the petitioner is that aggrieved by the revision proceedings as to the assessments, appeals have been preferred before the Sales Tax Appellate Tribunal. The petitioner has also moved applications before the 2nd respondent seeking stay of collection of the disputed tax. But the 2nd respondent rejected the stay applications. Pursuant to the said rejection order, the 1st respondent is threatening to take coercive steps for recovery of the disputed tax. Hence, the present writ petition has been preferred by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the appeals against the revision proceedings are pending before the Sales Tax Appellate Tribunal and at this stage, the 2nd respondent is not justified in rejecting the stay applications. It is further contended that taking advantage of the rejection of stay, the 1st respondent is threatening to take coercive steps and in these circumstances, if the relief of stay is not entertained and if the recovery of disputed tax is effected, the very purpose of filing the appeal before tribunal would be

defeated.

In the facts and circumstances of the case and in view of the fact that the appeals are pending before the Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of recovery of the disputed tax pending disposal of the appeals before the Tribunal subject to the condition of the petitioner depositing 50% of the disputed tax of each assessment year, within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th December, 2007

Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI

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HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:28160 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/12/2007